



### **FACTUAL HISTORY**

On January 12, 2021 appellant, then a 51-year-old rural carrier, filed an occupational disease claim (Form CA-2) alleging that she injured her right elbow due to factors of her federal employment, including repetitively opening boxes and pulling the emergency brake and opening the door of her long life vehicle (LLV). She noted that she first became aware of her condition on December 28, 2020 and its relationship to her federal employment on December 29, 2020. Appellant stopped work on December 29, 2020.

In a return to work form dated December 29, 2020, Kendall Wasz, a physician assistant, indicated that appellant was seen in her office on that date and noted that she could return to work on January 3, 2021. In a separate form dated January 11, 2021, she recommended that appellant remain out of work until January 25, 2021.

In a January 15, 2021 development letter, OWCP informed appellant that the evidence of record was insufficient to establish her claim. It advised her of the type of factual and medical evidence needed and requested a narrative medical report from her treating physician containing a detailed description of findings and a diagnosis, explaining how her work duties caused or aggravated a medical condition. OWCP afforded appellant 30 days to submit the necessary evidence.

OWCP thereafter received physical therapy notes dated January 15 through February 24, 2021 which indicated that appellant related complaints of sharp pain in her right wrist, hand, and elbow, which she attributed to overuse at work in December 2020. The notes contained a diagnosis of lateral epicondylitis of the right elbow.

In a follow-up note dated February 4, 2021, Ms. Wasz noted that appellant related ongoing right elbow pain. She performed a physical examination of the right elbow and administered a steroid injection. In a work excuse note of even date, Ms. Wasz recommended appellant remain out of work until February 22, 2021.

By decision dated March 29, 2021, OWCP denied appellant's occupational disease claim, finding that the evidence of record was insufficient to establish that her diagnosed conditions were causally related to the accepted factors of her federal employment. Consequently, it found that she had not met the requirements to establish an injury as defined by FECA.

### **LEGAL PRECEDENT**

An employee seeking benefits under FECA<sup>3</sup> has the burden of proof to establish the essential elements of his or her claim, including that the individual is an employee of the United States within the meaning of FECA, that the claim was timely filed within the applicable time limitation of FECA,<sup>4</sup> that an injury was sustained in the performance of duty as alleged, and that

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<sup>3</sup> *Id.*

<sup>4</sup> *F.H.*, Docket No. 18-0869 (issued January 29, 2020); *J.P.*, Docket No. 19-0129 (issued April 26, 2019); *Joe D. Cameron*, 41 ECAB 153 (1989).

any disability or medical condition for which compensation is claimed is causally related to the employment injury.<sup>5</sup> These are the essential elements of each and every compensation claim, regardless of whether the claim is predicated upon a traumatic injury or an occupational disease.<sup>6</sup>

To establish that an injury was sustained in the performance of duty in an occupational disease claim, an employee must submit the following: (1) a factual statement identifying employment factors alleged to have caused or contributed to the presence or occurrence of the disease or condition; (2) medical evidence establishing the presence or existence of the disease or condition for which compensation is claimed; and (3) medical evidence establishing that the diagnosed condition is causally related to the employment factors identified by the employee.<sup>7</sup>

The medical evidence required to establish causal relationship between a claimed specific condition and an employment incident is rationalized medical opinion evidence.<sup>8</sup> A physician's opinion on whether there is causal relationship between the diagnosed condition and the implicated employment duties must be based on a complete factual and medical background.<sup>9</sup> Additionally, the physician's opinion must be expressed in terms of a reasonable degree of medical certainty, and must be supported by medical rationale, explaining the nature of the relationship between the diagnosed condition and the specific employment factors identified by the claimant.<sup>10</sup>

### ANALYSIS

The Board finds that appellant has not met her burden of proof to establish a medical condition causally related to the accepted factors of her federal employment.

In support of her claim, appellant submitted various work excuse notes, reports by Ms. Wasz, a physician assistant, and various physical therapy records. Certain healthcare providers such as physician assistants, physical therapists, nurse practitioners, and social workers

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<sup>5</sup> *L.C.*, Docket No. 19-1301 (issued January 29, 2020); *J.H.*, Docket No. 18-1637 (issued January 29, 2020); *James E. Chadden, Sr.*, 40 ECAB 312 (1988).

<sup>6</sup> *P.A.*, Docket No. 18-0559 (issued January 29, 2020); *K.M.*, Docket No. 15-1660 (issued September 16, 2016); *Delores C. Ellyett*, 41 ECAB 992 (1990).

<sup>7</sup> *P.L.*, Docket No. 19-1750 (issued March 26, 2020); *R.G.*, Docket No. 19-0233 (issued July 16, 2019); *L.M.*, Docket No. 13-1402 (issued February 7, 2014); *Dolores C. Ellyett*, *id.*

<sup>8</sup> *S.S.*, Docket No. 19-0688 (issued January 24, 2020); *A.M.*, Docket No. 18-1748 (issued April 24, 2019); *Robert G. Morris*, 48 ECAB 238 (1996).

<sup>9</sup> *C.F.*, Docket No. 18-0791 (issued February 26, 2019); *Jacqueline M. Nixon-Steward*, 52 ECAB 140 (2000).

<sup>10</sup> *A.M.*, Docket No. 18-0562 (issued January 23, 2020); *Leslie C. Moore*, 52 ECAB 132 (2000).

are not considered “physician[s]” as defined under FECA.<sup>11</sup> Consequently, their medical findings and/or opinions will not suffice for purposes of establishing entitlement to FECA benefits.<sup>12</sup>

The Board finds that the medical evidence of record does not contain a medical diagnosis from a qualified physician in connection with the accepted factors of appellant’s federal employment. Consequently, she has not met her burden of proof to establish that she sustained a medical condition causally related to the accepted employment factors.

Appellant may submit new evidence or argument with a written request for reconsideration to OWCP within one year of this merit decision, pursuant to 5 U.S.C. § 8128(a) and 20 C.F.R. §§ 10.605 through 10.607.

### **CONCLUSION**

The Board finds that appellant has not met her burden of proof to establish a medical condition causally related to the accepted factors of her federal employment.

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<sup>11</sup> Section 8101(2) provides that under FECA the term physician includes surgeons, podiatrists, dentists, clinical psychologists, optometrists, chiropractors, and osteopathic practitioners within the scope of their practice as defined by the applicable state law. 5 U.S.C. § 8101(2); 20 C.F.R. § 10.5(t). *See* Federal (FECA) Procedure Manual, Part 2 Claims, *Causal Relationship*, Chapter 2.805.3a(1) (January 2013); *David P. Sawchuk*, 57 ECAB 316, 320 n.11 (2006) (lay individuals such as physician assistants, nurses, and physical therapists are not competent to render a medical opinion under FECA); *see also R.L.*, Docket No. 19-0440 (issued July 8, 2019) (nurse practitioners and physical therapists are not considered physicians under FECA).

<sup>12</sup> *D.P.*, Docket No. 19-1295 (issued March 16, 2020); *G.S.*, Docket No. 18-1696 (issued March 26, 2019); *see M.M.*, Docket No. 17-1641 (issued February 15, 2018); *K.J.*, Docket No. 16-1805 (issued February 23, 2018); *David P. Sawchuk, id.*

**ORDER**

**IT IS HEREBY ORDERED THAT** the March 29, 2021 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: January 31, 2022  
Washington, DC

Alec J. Koromilas, Chief Judge  
Employees' Compensation Appeals Board

Janice B. Askin, Judge  
Employees' Compensation Appeals Board

Valerie D. Evans-Harrell, Alternate Judge  
Employees' Compensation Appeals Board